

CHAPTER FIVE **PROCUREMENT AND BONDING REQUIREMENTS** **MONITORING AND COMPLIANCE REVIEW**

General Instructions to Monitoring Staff:

This review should be conducted “on-site” at the local program office through review of grantee policies and procedures, review of general files, inspection of actual procurement files selected at random by the Reviewer, and finally, through interviews of key staff. Any issues identified in this on-site review of the grantee’s procurement and bonding activities should be noted on the Procurement and Bonding Requirements – Summary Page for Monitoring and Compliance Review found at the end of this chapter.

A. GENERAL INFORMATION

Date(s) of On-Site Review: _____

Grantee/Project Name: _____ Program Year: _____

Grant #: _____ Grant Term: _____

Local Staff Interviewed:

Name: _____ Title: _____ Location: _____ Date of Interview: _____ Telephone #/e-mail: _____

B. ISSUES FROM GENERAL PROJECT INFORMATION SUMMARY: *Note: Please refer to Section D of the General Project Information Summary (Chapter One). Any Procurement and Bonding issues that emerged from the completion of Chapter One should be noted below and addressed through interviews with the local project staff and/or on-site file reviews. These issues can be addressed at the beginning of the monitoring visit, or at whatever point in the monitoring visit the Reviewer feels is appropriate.*

| Issues for On-Site Follow-Up | Related Questions/Citations | Staff Response and/or Resolution |
|------------------------------|-----------------------------|----------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Additional Instructions to Monitoring Staff:

PROCUREMENT

Grantees are likely to procure a variety of items and services over the course of implementing their Maryland CDBG project. The general “rules of thumb” for procurement are that grantees should:

- Purchase only those supplies and services actually required for the project;
- Follow a free and open competitive process in obtaining the necessary services or products;
- Properly document all of their purchasing activities;
- Follow the specific rules associated with different types of purchases;
- Use small, minority, women-owned and local businesses whenever possible; and
- Ensure that construction contractors and subcontractors are properly bonded, insured, and monitored.

The Federal regulations (at 24 CFR 85.36 for local government grantees and 24 CFR 84.40-48 for non-profit subrecipients) identifies four major methods of procurement:

1. **Competitive Sealed Bids** – This is the preferred method for procuring construction services. Grantees are required to conduct formal advertising through issuing an Invitation for Bids (IFB). Bids must be opened publicly. The grantee must receive bids from at least two (2) responsible vendors. A firm fixed price contract is awarded to lowest responsible and responsive bidder whose bid conforms with all the material terms and conditions of the IFB.
2. **Competitive Proposals** – This method is typically used when conditions are not appropriate for the use of the sealed bid method, such as for the procurement of professional services (e.g., consultants, architects, engineers, accountants, etc.). Under this approach, proposals are solicited from qualified vendors through the grantee publicizing a Request for Proposals. The contract must be awarded to the most responsive and responsible offeror after scoring the proposals according to pre-determined evaluation criteria to identify the “most advantageous” source of the services or goods.
3. **Small Purchases** – For items costing less than \$100,000 under Federal rules, although local and State ceilings on “small purchases” tend to be much lower. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of sources.
4. **Non-Competitive Proposals** – This method should be used only when the grantee has a need to acquire goods or services that are available from only one source, to meet an emergency requirement, or in instances in which there is inadequate competition after proposals/bids have been sought from several sources. This method generally requires prior consultation and/or approval from DHCD.

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In all instances, the grantee's solicitation should be as explicit as possible in order that the respondents know what is being requested and the qualifications necessary to be considered. It is recommended that grantees include the following items in their solicitations:

- Purpose of the procurement.
- The identity of the person who is the procurement officer and is the sole point of contact for the particular procurement.
- A statement that any changes or amendments to the solicitation will be sent to all who received the original solicitation.
- A date and time for submission of responses, and indication that a late response will not be considered.
- A statement that the soliciting organization is not responsible for any expense that bidders/offerors may incur in preparing bids or proposals.
- A statement reserving the right to reject any and all bids or parts of bids.
- A section describing any affidavits the bidder must fill out, including any bonding that may be required.
- The expected term of the contract.
- A list of all mandatory clauses.
- A statement that prices are irrevocable for 90 days.
- A statement that vendors must specifically indicate those parts of their bids or proposals that they request remain confidential.
- The specific rating criteria that will be used to evaluate offers.

In addition, DHCD staff should ensure that grantees do not employ the following procurement practices:

- Splitting bids specifically so "small purchase" procedures can be used.
- Providing inside information to a prospective bidder/offeror.
- Abusive change order or contract modification practices
- Preparation of fictitious bids
- Unnecessarily restrictive specifications
- Payment to contractors before services or goods inspected.

Procurement practices are an integral part of Federal labor provisions, as well as affirmative action and equal employment opportunity provisions. As part of the procurement process, grantees should encourage the participation of minority- and women-owned business enterprises (see Chapter Nine – FHEO and Chapter Ten – Labor Standards). Furthermore, DHCD staff must also ensure that no grantee funds were obligated for activities requiring an environmental assessment prior to DHCD approval of the grantee's Request for Release of Funds (see Chapter Two – Environmental Review).

BONDING

In accordance with **24 CFR 85.36(h) for local government entities**, grantees must establish bonding and insurance requirements that ensure completion of all Maryland CDBG Program construction contracts in the event of contractor or subcontractors default. Depending on the size of the contract, prospective bidders may be required to post bid guarantees at the time a bid is submitted and performance and payment bonds when the contract is awarded.

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For contracts of \$100,000 or less in value, grantees are free to use their own requirements relating to bid guarantees and bonding. Bid guarantees as well as performance and payment bonds are required for contracts exceeding \$100,000, in amounts equal to the following:

- Bid guarantee from each bidder equivalent to 5% of the bid price to secure a firm commitment that the bidder will, upon acceptance of his or her bid, execute contractual documents.
- Performance bond on the part of the contractor for 100% of the contract price to secure fulfillment of all of the contractor's contract responsibilities.
- Payment bond on the part of each contractor for 100% of the contract price to assure payment to all persons supplying labor and materials.

IN-HOUSE REVIEW

The procurement and bonding monitoring review should be timed so that the grantee has completed a number of procurements prior to the review. The Reviewer should conduct the following activities as part of the in-house review:

- ◆ Review the approved application and Grant Agreement to determine the nature and types of procurement that can be expected relative to the project.
- ◆ Identify any grantee requests for changes in the project scope or budget, or other amendments, that may impact procurement.
- ◆ Determine if the grantee has requested and received approval for contractor clearance; note the names of the approved contractors.
- ◆ Review any approved Requests for Payment to identify contract or other procurement activities for which Maryland CDBG Program funds have been used.

ON-SITE REVIEW

DHCD monitoring staff should first focus on the grantee's overall procurement and bonding policies to ensure that these policies are consistent with the Federal and State requirements. After the adequacies of the grantee's policies have been established, the Reviewer should focus on the extent to which the grantee actually complied with these standards in its practices.

To review grantee compliance, the Reviewer must sample a number of procurements. ***The overriding concern of the monitoring review is that, to the maximum extent feasible, open and free competition characterized all procurements.*** Furthermore, a determination must be made that each procurement was necessary to carry out the grantee's project. In addition, grantee procurement files should be reviewed to ensure that solicitations conformed with project requirements and that the grantee made efforts to encourage small, minority-owned, women-owned and local businesses to submit bids and/or proposals.

In cases where the grantee employed non-competitive proposals or bids, the Reviewer must determine whether the procurement file contains adequate documentation justifying the use of this procurement method.

All construction contracts must be reviewed to ensure that they contain appropriate conditions relating to bonding, labor standards, equal employment opportunity, and other required provisions. A site inspection and file review should also be conducted to verify (continued on next page)

that the grantee adequately monitored contractor performance and compliance.

The following represents a typical sequence of on-site procurement monitoring activities by the Reviewer:

- ◆ Ask the grantee for a copy of its written procurement policies.
- ◆ Ask the grantee to describe the manner in which the following activities take place:
 - Determining the need for the services or goods solicited
 - Preparing the bid package or RFP
 - Notifying prospective contractors, including MBEs, WBEs, small and local firms
 - Bid or RFP advertisement
 - Bid or RFP review and award
 - Determination that the proposed contractor is adequately bonded
 - Determining appropriate contract requirements and language
 - Contractor monitoring and payment
 - Approval of change orders
 - Final inspection and acceptance
 - Ensuring proper receipt of procured materials and supplies
- ◆ Review *source documentation* pertaining to bid or proposal specifications, grantee maintenance of bidders lists, bid advertisements (note: copies of invoices from newspapers serve as good source documentation), number of bidders/proposals received, criteria for selection, and any protests or appeals submitted by unsuccessful bidders.
- ◆ For small purchases, review requisitions and purchase orders or other forms of commitment to procure materials, supplies and services.
- ◆ Review contracts to confirm that they conform to Federal and State requirements. (No contract should be awarded on a cost-plus-a percentage of cost basis as this type of contract will not have a dollar maximum to which the grantee is bound.)
- ◆ Compare contract award date to DHCD approval of the grantee's Request for Release of Funds.
- ◆ Review purpose and grantee basis for approval of change orders (e.g., did the contractor bid low and then request price adjustments due to "unexpected occurrences"?).
- ◆ Review dates and contents of grantee site inspections.
- ◆ Compare dates of grantee site reviews to contractor payment dates to ensure payments were based on actual contractor progress and compliance.
- ◆ Make on-site inspection of work to confirm actual work progress.
- ◆ For professional services contracts, review file to confirm that it contains copies of plans, appraisal reports, audits, or other products obtained.
- ◆ Spot check grantee offices and project site locations to confirm that materials and supplies procured were actually delivered and necessary for the project funded by the Maryland CDBG Program (see also Chapter Eight – Property Management).

All issues identified during the on-site review of the grantee's procurement and bonding policies and practices should be noted on the Procurement and Bonding Requirements – Summary Page for Monitoring and Compliance Review found at the end of this chapter of the Handbook.

C. PROCUREMENT AND BONDING REQUIREMENTS

| | | | |
|--|---|--|--|
| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p>Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p>Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p>Amount:</p> <p>\$ _____</p> | <p>Comments and Description of Documentation or Issues:</p> |
| <p>GENERAL PROCUREMENT POLICIES AND PROCEDURES</p> | | | |
| <p><i>Citation 24 CFR 85.36(c)(3): requires grantees to have written selection procedures for procurement transactions. These can be specific to particular procurements, but it is best to have general written policies governing all procurements.</i></p> <p>1. Written Procurement Policies and Procedures: Does the grantee have written policy and procedural guidelines for employees who are responsible for or engage in procurement?</p> | <p>Yes No</p> | | <p>If no general written policies, describe the grantee's approach to ensuring consistent procurement standards:</p> |
| <p><i>Citation: 24 CFR 85.36(b)(3): Requires grantees to have a written code of standards covering employees involved in the award and/or administration of contracts.</i></p> <p>2. Code of Standards: Do the written guidelines address the need for employees to avoid both real and apparent conflicts of interest?</p> <p>Do the written guidelines specify standards of behavior and sanctions for violations of those standards?</p> | <p>Yes No</p> <p>Yes No</p> | | |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p style="text-align: center;">Amount:</p> <p>\$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> |
|---|---|---|---|
| <p><i>Citation: 24 CFR 85.36(b)(4)-(b)(8): Requires grantees to have internal procurement review procedures to avoid purchase of unnecessary or duplicative items, and to encourage greater economies.</i></p> <p>3. Procurement Review Procedures: Are the grantee's procurement procedures adequate to ensure the following:</p> <ul style="list-style-type: none"> - Avoid unnecessary, duplicative, or ineligible purchases? Yes No - Encourage use of Federal excess and surplus property, and local intergovernmental agreements for procurement of common goods or services? Yes No - Foster use of value engineering clauses in construction contracts? Yes No - Achieve favorable prices for goods and services without sacrificing needed quality? Yes No - Make purchases on the basis of maximum open and free competition? Yes No - Address equal employment opportunity and Section 3 objectives in the procurement processes? Yes No - Secure adequate bonding and insurance to protect the interest of the grantee, State and Federal government? Yes No - Make awards only to responsible contractors possessing the ability to perform successfully? Yes No | | | |
| <p><i>Citation: 24 CFR 85.36(f): Requires a cost and price analysis of every procurement, with the method and degree of analysis dependent on the size and complexity of each procurement situation.</i></p> <p>4. Cost and Price Analysis: Does the grantee perform a cost and price analysis for every procurement action, including contract modifications?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p style="text-align: center;">Amount:</p> <p>\$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> |
|---|---|---|---|
| <p>Citation: 24 CFR 85.36(b)(9): Grantees must maintain records sufficient to document the history of a procurement.</p> <p>5. Documentation of Procurement Actions: Does the grantee maintain adequate records to document the history of its procurements, including rationale for method of procurement, selection of contract type, contractor selection or rejection, and basis for contract price?</p> <p><i>Note: The Reviewer may want to complete the following sections of this checklist before responding to this question.</i></p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| REVIEW OF PROCUREMENTS UTILIZING COMPETITIVE SEALED BIDS | | | |
| <p>Citation: 24 CFR 85.36(d)(2): Describes requirements for sealed bid procurements</p> <p>1. Minimum Bidder Qualifications: Does the Invitation for Bids (IFB) specify clearly the minimum qualifications that must be met in order for a bidder to be considered (e.g., length of time in business, experience doing comparable work, etc.)?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p>2. Description of Items or Services: Did the IFB clearly describe the items or services to be purchased, without reference to specific brand requirements (unless the brand was used as an example of functional or quality requirements)?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p style="text-align: center;">Amount:</p> <p>\$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|--|--|--|---|--|-----|-----|---|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|--|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|--|
| <p>3. Provisions in the IFB: Did the IFB include appropriate provisions relating to:</p> <ul style="list-style-type: none"> - Bonding? - Retainage? - Equal opportunity and Section 3? (see Chapter Nine – FHEO) - Labor standards? (see Chapter Ten – Labor Standards) - Corporate registration and tax payments? - Non-collusion? - Anti-bribery and kickbacks? - Debarment? - Other provisions (specify): | <table border="0"> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Citation: 24 CFR 85.36(d)(2)(ii)(A): Requires that invitations to bid be publicly advertised.</p> <p>4. Publication: Were IFBs over the applicable “small purchase” threshold advertised in a publication of general circulation, as well as in minority newspapers?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <p>List publications and dates:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>5. Outreach: Were reasonable efforts were made to identify firms that might be interested and qualified to bid on the proposed contract?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <p>Briefly describe outreach efforts:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Citation: 24 CFR 85.36(e): Requires grantees to affirmatively market the procurement and undertake outreach to small businesses, MBE/WBE firms, and labor surplus area firms.</p> <p>6. Equal Opportunity: Were reasonable outreach efforts made to qualified MBEs, WBEs, small businesses, and local businesses to interest them in bidding on the proposed contract?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <p>Briefly describe efforts:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p style="text-align: center;">Amount:</p> <p>\$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> |
|---|---|--|---|
| 7. How many invitations to bid were sent out? | | _____ | |
| 8. Was a distribution list on file? | Yes No | Yes No | |
| 9. Was documentation of the bidders' statements required? | Yes No | Yes No | |
| 10. System for Reviewing Bids: Was there a clearly delineated evaluation or scoring system? | Yes No | Yes No | |
| 11. Were bids held in confidentiality until bid opening? | Yes No | Yes No | If "No", please explain: |
| 12. How many bids were submitted? | | _____ | |
| 13. Opening of Bids: Was a public meeting held to open bids at the time and place stated in the IFB? Date of bid opening: _____ | Yes No | Yes No | |
| 14. Was signed documentation returned by bidders (and included in the contract of the selected firm)? | Yes No | Yes No | |
| 15. Were references of bidders checked? | Yes No | Yes No | |
| 16. Contractor Eligibility: Did the grantee obtain verification of contractor eligibility prior to awarding the contract? Date of verification: _____ | Yes No | Yes No | |
| 17. Contract Award: Was the contract awarded to the lowest responsive and responsible bidder? | Yes No | Yes No | If "No", describe basis for award: |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p>Amount: \$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> |
|---|---|--|---|
| <p>18. (If applicable) Was a pre-construction conference held?</p> <p style="padding-left: 40px;">If "Yes", date of conference: _____</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | <p>If "No", please explain:</p> |
| <p>19. (If applicable) Are the minutes from the pre-conference conference on file? <i>(Note: also see Chapter Nine – FHEO, and Chapter Ten – Labor Standards)</i></p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p>20. Contractor Monitoring: Is there evidence that the grantee monitored contractor progress after contract approval? <i>(Note: see also Chapter Nine – FHEO, and Chapter Ten – Labor Standards)</i></p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p>21. Contractor Payments: Is there a contractor payment review procedure to assure that payments to contractors are based on work completed?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | <p>Briefly describe procedure:</p> |
| REVIEW OF PROCUREMENTS UTILIZING COMPETITIVE PROPOSALS | | | |
| <p>Citation: 24 CFR 85.36(d)(3): Specifies the standards and procedures for procurements using competitive proposals.</p> <p>1. Did the grantee prepare a formal Request for Proposals when using this procurement method?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | <p>If "no", explain:</p> |
| <p>2. Description of Items or Services: Did the RFP clearly describe the items or services being procured?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p>3. Qualifications of Offerors; Evaluation System: Did the RFP specify clearly the minimum qualifications that must be met in order for a proposer to be considered, as well as all significant evaluation factors and a scoring system (including price and its relative importance)?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p style="text-align: center;">Amount:</p> <p>\$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
|---|---|--|---|--|-----|-----|---|-----|----|-----|----|-----|----|-----|----|-----|----|---|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|-----|----|--|
| <p>4. Provisions of RFP: Did the RFP include appropriate provisions relative to:</p> <ul style="list-style-type: none"> - Bonding? - Retainage? - Equal opportunity and Section 3 (see Chapter Nine – FHEO)? - Labor Standards (see Chapter Ten – Labor Standards)? - Corporate registration and tax payment? - Non-collusion? - Anti-bribery and kickback? - Debarment? - Other provisions? (specify): | <table border="0"> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | Yes | No | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>5. Was documentation required with proposals?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Citation: 24 CFR 85.36(d)(3)(i): Requires that requests for proposals be “publicized”.</p> | | | <p>Describe process of “publicizing” RFP:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>6. Publication: Was the RFP adequately publicized?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>7. Outreach: Were reasonable efforts made to identify firms that might be qualified to interest them in submitting a proposal for the contract?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <p>Briefly describe outreach efforts:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| <p>Citation: 24 CFR 85.36(e): Requires grantees to affirmatively market the RFP and to conduct outreach to small businesses, MBEs, WBEs, and local firms.</p> <p>8. Equal Opportunity: Were reasonable efforts made to interest qualified MBEs, WBEs, small businesses and local businesses in submitting a proposal for the contract?</p> | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <table border="0"> <tr><td>Yes</td><td>No</td></tr> </table> | Yes | No | <p>Briefly describe outreach efforts:</p> | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| Yes | No | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

| <p style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</p> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p style="text-align: center;">Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p style="text-align: center;">Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p style="text-align: center;">Amount:</p> <p>\$ _____</p> | <p style="text-align: center;">Comments and Description of Documentation or Issues:</p> |
|--|---|--|---|
| <p>9. How many invitations to bid were sent out?</p> | | <p style="text-align: center;">_____</p> | |
| <p>10. Was a distribution list on file?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p>11. How many proposals were submitted to the grantee?:</p> | | <p style="text-align: center;">_____</p> | |
| <p>12. Were the signed documents returned by offerors, and were references checked?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p>13. Were all proposals held in confidentiality until final award of the contract?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | |
| <p><i>Citation: 24 CFR 85.36(d)(3)(iii) and (iv): Competitive proposal procurement requires grantee to identify all evaluation factors and their relative importance (i.e. prior comparable experience, price, proposed approach to the problem, etc), and to award the contract in accordance with the selection criteria.</i></p> <p>14. Contract Award: Does the procurement file contain supporting documentation that indicates the contract was awarded in accordance with the established selection criteria?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | <p>If "No", please explain basis of award:</p> |
| <p>15. Contractor Monitoring and Payment: Is there a contractor payment review procedure in place to ensure payments to contractors are based on work completed?</p> | <p style="text-align: center;">Yes No</p> | <p style="text-align: center;">Yes No</p> | <p>Briefly describe procedure:</p> |

| | | | |
|--|---|--|---|
| <h2 style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</h2> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p>Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p>Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p>Amount:</p> <p>\$ _____</p> | <p>Comments and Description of Documentation or Issues:</p> |
| REVIEW OF "SMALL PURCHASE" PROCUREMENTS | | | |
| <p>Citation: 24 CFR 85.36(d)(1): Specifies the Federal standards for procurements that do not cost more than the "simplified acquisition threshold" (currently set at \$100,000). Note, however, that the locality or State can set a lower threshold that will affect the circumstances in which these "simplified" procedures can be followed.</p> <p>1. Purchase Necessary?: Did the grantee determine that the purchase was necessary to carry out the approved Maryland CDBG project?</p> | <p>Yes No</p> | <p>Yes No</p> | <p>As appropriate, describe how determination made:</p> |
| <p>2. Specifications: Were specifications delineated clearly and to every vendor?</p> | <p>Yes No</p> | <p>Yes No</p> | |
| <p>Citation: 24 CFR 85.36(d)(1): For small purchases, price quotes are required to be secured from "an adequate number" of qualified sources.</p> <p>3. Price Quotes: At a minimum, were price quotations solicited from at least two, but preferably three or more vendors?</p> <p>Number of price quotations received: _____</p> | <p>Yes No</p> | <p>Yes No</p> | |
| <p>4. Award: Was a purchase order/contract issued to the most advantageous vendor in terms of price and other factors considered?</p> | <p>Yes No</p> | <p>Yes No</p> | |
| <p>5. Were these factors described to vendors?</p> | <p>Yes No</p> | <p>Yes No</p> | <p>Describe factors:</p> |
| <p>6. Verify Receipt?: Did the grantee verify the receipt of goods?</p> | <p>Yes No</p> | <p>Yes No</p> | |

| | | | |
|--|---|--|---|
| <h2 style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</h2> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p>Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p>Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p>Amount:</p> <p>\$ _____</p> | <p>Comments and Description of Documentation or Issues:</p> |
| REVIEW OF NON-COMPETITIVE PROPOSALS | | | |
| <p>Citation: 24 CFR 85.36(d)(4): Specifies the Federal standards for non-competitive procurements.</p> <p>1. Reason for Sole Source: Was the desired item or service either only available from one source, or necessary to meet a public emergency?</p> | <p>Yes No</p> | <p>Yes No</p> | <p>If "Yes", describe grantee's basis for this determination:</p> |
| <p>2. Documentation of Emergency: If purchased to meet an emergency, was there documentation of the public emergency?</p> | <p>Yes No</p> | <p>Yes No</p> | <p>Describe nature of emergency and how documented:</p> |
| <p>3. If not an emergency, was competition determined to be inadequate after a number of sources had been solicited?</p> | <p>Yes No</p> | <p>Yes No</p> | <p>Explain:</p> |
| <p>4. Written Documentation of Basis: Did the grantee make a written determination that indicates the basis for the sole source determination?</p> <p>Did the grantee consult with DHCD in making this determination?</p> | <p>Yes No</p> <p>Yes No</p> | <p>Yes No</p> <p>Yes No</p> | |
| <p>5. Verify Receipt?: Did the grantee verify receipt of the goods and services as specified?</p> | <p>Yes No</p> | <p>Yes No</p> | |

| | | | |
|--|---|--|---|
| <h2 style="text-align: center;">PROCUREMENT & BONDING CHECKLIST</h2> <p style="text-align: center;">(24 CFR 85.36, last revised 3/11/88, 4/19/95)</p> | <p>Documentation Indicates that General Program Practices Consistent with Policies & Regulations?</p> | <p>Sample Procurement or Contract</p> <p>Name: _____</p> <p>_____</p> <p>Amount:</p> <p>\$ _____</p> | <p>Comments and Description of Documentation or Issues:</p> |
| BONDING REQUIREMENTS | | | |
| <p><i>Citation: 24 CFR 85.36(h): Grantee is required to protect interests of local, State, and Federal government in all construction or facilities improvement contract and sub-contracts. 24 CFR 85.36(h)(1)-(3) also specifies minimum bonding requirements for larger construction or facilities improvement contracts.</i></p> <p>1. Bonding Requirements: For sealed bids and competitive negotiation construction or facilities improvement contracts exceeding \$100,000:</p> <ul style="list-style-type: none"> - Did the grantee secure a bid guarantee from each bidder equivalent to 5% of the bid price to secure a firm commitment that the bidder will, upon acceptance of his/her bid, execute contractual documents? - Did the grantee secure a performance bond on the part of the contractor for 100% of the contract price to secure fulfillment of all the contractor's contract responsibilities? - Did the grantee secure a payment bond on the part of each contractor for 100% of the contract price to assure payment of all persons supplying labor and materials? | <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> | <p>Yes No</p> <p>Yes No</p> <p>Yes No</p> | |

PROCUREMENT AND BONDING REQUIREMENTS

SUMMARY PAGE FOR MONITORING AND COMPLIANCE REVIEW

Instructions to Monitoring Staff:

In the space below, please note any issues arising from the on-site review. For any procurement or bonding concerns or findings identified during the review, provide amplification as necessary, and specify corrective actions the grantee must take to resolve the issue(s). Also describe the nature of any technical assistance provided. List any follow-up action for the Maryland CDBG Program staff and/or the grantee, and the dates by which such actions must be taken.

Issues/Concerns/Findings (and Relevant Citations):

Necessary Action Steps and/or Resolution (and Deadlines):

Based on the evidence reviewed, has the grantee complied with appropriate procurement and bonding requirements? Yes No

Maryland DHCD Staff Conducting Review: _____

Date Review Completed: _____